

1 hereby adopted as such.

2 From these Conclusions the Board enters this

3 ORDER

4 The notice of violation and \$250 civil penalty is affirmed;
5 provided, however, that \$100 of the penalty is suspended on condition
6 that appellant not violate respondent's regulations for a period of
7 one year after this Order becomes final.

8 DONE this 2nd day of July, 1984.

9 POLLUTION CONTROL HEARINGS BOARD

10  7/2/84
11 LAWRENCE J. FAULK, Vice Chairman

12 
13 GAYLE ROTHROCK, Chairman
14
15
16
17
18
19
20
21
22
23
24
25

1 respondent on methods and a timetable to correct the problem.

2 V

3 Appellant has not violated respondent's regulation previously.

4 VI

5 Any Conclusion of Law which should be deemed a Finding of Fact is
6 hereby adopted as such.

7 From these Findings the Board comes to these

8 CONCLUSIONS OF LAW

9 I

10 Section 400-040(1) of Regulation I makes it unlawful for any
11 person to cause or allow the emission of an air contaminant for a
12 period or periods aggregating more than three minutes in any one hour
13 which is of an opacity greater or equal to 20 percent.

14 II

15 Section 400-130(2) provides for a civil penalty of up to \$250 per
16 day for each violation of Regulation I.

17 III

18 Appellant violated Section 400-040 of Regulation I on the date and
19 times alleged.

20 IV

21 In light of the circumstances of this case, and appellant's record
22 of no prior recorded violations, a portion of the \$250 penalty
23 assessed for this violation should be suspended.

24 III

25 Any Finding of Fact which should be deemed a Conclusion of Law is

26 FINAL FINDINGS OF FACT,
27 CONCLUSIONS OF LAW & ORDER
PCHB No. 84-108

1 the testimony heard and exhibits examined, the Pollution Control
2 Hearings Board makes these

3 FINDINGS OF FACT

4 I

5 Respondent, pursuant to RCW 43.21B.260, has filed with this Board
6 a certified copy of its Regulation I containing respondent's
7 regulation and amendments thereto, which are noticed.

8 II

9 On April 4, 1984, at about 12:30 p.m., while on routine patrol,
10 respondent's inspector saw blue-gray smoke emissions rising from the
11 boiler stack of appellant's lumber mill located at 1674 State Highway,
12 Cnehalis, Washington. The inspector, a qualified emissions observer,
13 properly positioned himself and recorded opacity readings exceeding
14 20 percent for 17 1/2 minutes during a 25-minute observation.

15 III

16 On April 5, 1984, respondent issued a notice of violation of
17 Section 400-040 of Regulation I along with a civil penalty of \$250.
18 Appellant, feeling aggrieved by this action, filed an appeal with this
19 Board on May 29, 1984. The record indicates he did not receive the
20 notice of violation until May 3, 1984.

21 IV

22 Appellant indicated that he operates a family lumber mill. He
23 understands that he has a problem with the boiler because it
24 periodically emits excessive visible emissions, since the material to
25 be burned is not fed evenly into the boiler. He is working with

26 FINAL FINDINGS OF FACT,
27 CONCLUSIONS OF LAW & ORDER
PCHE No. 84-108

BEFORE THE
POLLUTION CONTROL HEARINGS BOARD
STATE OF WASHINGTON

IN THE MATTER OF
ALEXANDER LUMBER MILL,

Appellant,

v.

SOUTHWEST AIR POLLUTION
CONTROL AUTHORITY,

Respondent.

PCHB No. 84-108

FINAL FINDINGS OF FACT,
CONCLUSIONS OF LAW AND
ORDER

This matter, the appeal of a notice of violation and civil penalty for an opacity violation of respondent's Regulation I came on for hearing before the Pollution Control Hearings Board; Lawrence J. Faulk, Vice Chairman and presiding, and Gayle Rothrock, Chairman, at a formal hearing in Lacey, Washington, on June 21, 1984.

Appellant Dale Alexander represented himself. Respondent Southwest Air Pollution Control Authority (SWAPCA) was represented by Edward R. Taylor, Executive Director of SWAPCA.

Witnesses were sworn and testified. Exhibits were examined. From